

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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OCT 16 1995

In the Matter of)
)
Local Exchange Carriers' Rates,)
Terms, and Conditions for)
Expanded Interconnection Through)
Virtual Collocation for Special)
Access and Switched Transport)

CC Docket No. 94-97,
Phase II

DOCKET FILE COPY ORIGINAL

To: The Common Carrier Bureau

OPPOSITION TO PETITION FOR CONDITIONAL EXTENSION

On October 6, 1995, Southwestern Bell Telephone Company ("SWBT") filed a petition seeking an extension of the date for filing certain information requested by the Commission, in its Order Designating Issues for Investigation in the above-captioned proceeding. SWBT seeks an extension beyond the FCC's October 19, 1995 deadline to provide the data requested in Appendix C of the Designation Order for some and perhaps all of the eight vendors of interconnector-designated equipment ("IDE"). Specifically, SWBT requests an extension until November 6, 1995, for its submission of the remaining Appendix C data. Time Warner Communications Holdings, Inc. ("TWComm"), by its attorneys, urges the Commission to deny SWBT's petition, for the following reasons:

As an initial matter, SWBT has been on notice since the Commission issued its order directing SWBT and other LECs to file VEIS tariffs more than one year ago that complete cost support for all VEIS rate elements would be required.¹ Indeed, SWBT has been specifically directed to provide cost support data to support its tariffed rates for VEIS services by both the FCC and the states.² SWBT has wholly failed to explain why all information required for Appendix C is not readily available and cannot be provided within the time allocated for submission of direct cases in the Commission's Phase II investigation. SWBT's purported inability to provide all of the requested data would appear to indicate that its effort to assemble the necessary cost support has been woefully deficient. Alternatively, SWBT's request for extension of the filing deadline may be seen as yet another in a series of attempts by SWBT to withhold from the public record or delay the submission of information which is critical to the Commission's evaluation of the reasonableness of its VEIS service offerings.³

¹ Expanded Interconnection with Local Telephone Company Facilities, 9 FCC Rcd 5154, 5187-5188 (released July 25, 1994) ("Virtual Collocation Order"). See also Commission Requirements for Cost Support Material to be Filed with Virtual Collocation Tariffs for Special Access and Switched Transport, 9 FCC Rcd 5679 (released July 25, 1994) ("Tariff Review Plan Order").

² For example, over the past year, SWBT was required by the Texas PUC to provide extensive cost support for its proposed intrastate VEIS rates in PUC Docket No. 12879.

³ See e.g., Letter from Kathleen H. Wallman, Chief, Common Carrier Bureau to John L. McGrew (June 16, 1995), granting in part TWComm Freedom of Information Act Request regarding SWBT cost support data, Control No. 95-211.

In its request for extension, SWBT asserts that the burden of compliance with the Commission's Designation Order is much greater for it than for other LECs, due to the number of rate elements included in SWBT's VEIS tariff. However, as the Commission is aware, the primary reason for this disparity in the number of rate elements is SWBT's continued refusal to make available the \$1 sale and repurchase arrangement which all of the other LECs, with the exception of Cincinnati Bell, currently include in their VEIS offerings.⁴ Clearly, SWBT should not be permitted to further obstruct and delay this proceeding by securing an extension on the basis of a "problem" of its own making. This is particularly true in this instance, where SWBT's refusal to utilize a sale/repurchase approach represents a calculated effort to impose added costs on its competitors.

The competitive local exchange industry should not be placed at a further disadvantage as a result of SWBT's delaying tactics. Grant of SWBT's request for extension would impose significant burdens on TWComm and other parties seeking to assist the Commission in its Phase II investigation. Approval of the proposed extension would allow SWBT to withhold the bulk of its IDE data⁵ until after the current (November 3) deadline for responses to the LEC direct cases has passed, thereby forcing

⁴ See Designation Order at ¶ 17.

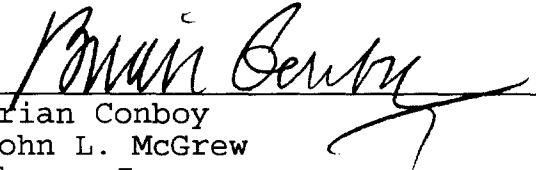
⁵ In its request, SWBT makes no firm commitment to provide any of its vendors' IDE data in a timely manner, but merely states that it "should" have information for three (unnamed) vendors available by October 19. SWBT Request at 2.

TWComm and other would-be respondents to incur the added expense of preparing and filing separate pleadings addressing SWBT's delayed submission. The Commission has established a full agenda of proceedings addressing a number of important issues (e.g., LEC pricing flexibility, number portability, universal service) the resolution of which will have a critical impact on the development of competition in the provision of local telecommunications services. Grant of SWBT's petition would only add to the significant burden which the Commission's ambitious, but necessary, agenda has placed on the resources of new entrants, such as TWComm.⁶

⁶ In recognition of this added burden, TWComm urges the Commission, should it decide to extend the current deadline for SWBT notwithstanding TWComm's objection, to grant a comparable extension of the response date, so that TWComm and others may respond to all LEC direct cases in a single pleading.

For the foregoing reasons, TWComm urges the Bureau to resist SWBT's latest attempt to obstruct and delay the Commission's investigation of its VEIS service offerings, by denying the instant request for extension.

Respectfully submitted,



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October 16, 1995

CERTIFICATE OF SERVICE

I, Rosalyn Bethke, do hereby certify that on this 16th day of October, 1995, copies of the foregoing "Opposition to Petition for Conditional Extension" were delivered by hand, delivery and by First Class mail, postage pre-paid, as indicated below, to the following parties:

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A handwritten signature in cursive script, reading "Rosaly Bethke". The signature is written in dark ink and is positioned above a horizontal line.

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